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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

BOARD OF TRUSTEES OF THE NEVADA
RESORT ASSOCIATION-
INTERNATIONAL ALLIANCE OF
THEATRICAL STAGE EMPLOYEES AND
MOVING PICTURE MACHINE
OPERATORS OF THE UNITED STATES
AND CANADA LOCAL 720 PENSION
TRUST,

Plaintiff,

v.

JAYSON PEARSON,

Defendant.

CASE NO.:

COMPLAINT

Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. This action arises under the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1132(a)(3) and 29 U.S.C. § 1132(e)(1).

2. Venue is proper under 29 U.S.C. § 1132(e)(2) because the Plaintiff is administered in Clark County, Nevada.

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PARTIES

3. Plaintiff is the Board of Trustees of the Nevada Resort Association-International Alliance of Theatrical Stage Employees and Moving Picture Machine Operators of the United States and Canada Local 720 Pension Trust (the "Plan").

4. The Board of Trustees is made up of fiduciaries of the Plan for purposes of ERISA.

5. Defendant Jayson Pearson is an individual, who, based on information and belief, is a resident of the State of Nevada.

FACTUAL BACKGROUND

6. On information and belief, Defendant Jayson Pearson is the son of Dana Pearson.

7. At all times relevant, Dana Pearson was a Participant in Plan accruing pension benefits in his account with the Plan.

8. Dana Pearson passed away on May 22, 2014.

9. The Plan was not notified of Dana Pearson's death until September 2014, and consequently made \$7,992.36 in pension overpayments to Dana Pearson's bank account.

10. Jayson Pearson communicated to the Plan that he spent the overpaid pension benefits. The Plan informed Jayson Pearson that pension benefits ceased upon Dana Pearson's death and the overpaid amounts must be repaid to the Plan.

11. Jayson Pearson has received multiple requests to reimburse the Plan.

12. Jayson Pearson has not repaid the Plan for the overpayment.

13. In exercising control of the pension benefits and refusing to repay the benefits erroneously paid, Jayson Pearson has violated the terms of the Plan.

14. Jayson Pearson has wrongfully retained amounts erroneously paid by the Plan.

SOLE CAUSE OF ACTION

(ERISA § 502(a)(3) – Unjust Enrichment)

15. The Trust hereby incorporates the allegations contained in paragraphs 1 to 14 as though fully set forth herein.

1 16. By erroneously making payments after Dana Pearson's death, the Plan made
2 overpayments in the amount of \$7,992.36.

3 17. Jayson Pearson has retained the overpayment of \$7,992.36 even though he is
4 aware that he is not entitled to those funds.

5 18. Jayson Pearson has refused and failed to repay the Plan the overpayments he
6 received.

7 19. Jayson Pearson exercised control over the erroneously paid benefits and has
8 refused and failed to repay the Plan.

9 20. It would be inequitable to allow Jayson Pearson to retain the amount of benefit
10 erroneously paid.

11 21. The Plan is entitled to equitable restitution of the overpayments, with interest and
12 attorneys' fees and costs.

13 WHEREFORE, the Plan prays for relief as follows:

14 1. Equitable relief in the form of restitution of \$7,992.36 from Jayson Pearson and
15 applicable interest;

16 2. For attorney's fees and costs incurred herein;

17 3. Prejudgment and postjudgment interest; and

18 4. For such other and further equitable relief as the Court deems proper.

19
20 Dated: August 4, 2017.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

21 /s/ Christopher M. Humes

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